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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,957	12/15/2003	Toshitada Sakai	H-5117	3406
7590	12/27/2005		EXAMINER	
Paul A. Fattibene Fattibene and Fattibene 2480 Post Road Southport, CT 06490			GOFF II, JOHN L	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/735,957	SAKAI, TOSHITADA	
	Examiner John L. Goff	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 December 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This action is in response to the amendment filed on 10/5/05. The 35 U.S.C. 103 rejection over Dorper et al. is withdrawn.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Newly submitted claim 4 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 4 is an apparatus claim directed to a sealing apparatus capable of sealing tubes other than resinous tubes whereas original claim 1 (the only original claim) was directed to a method of sealing a resinous tube.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 4 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (Specification Figure 6 and pages 1-3) in view of any one of Cozzoli '342 (U.S. Patent 2,379,342), Cozzoli '688 (U.S. Patent 2,749,688), or Bradford et al. (U.S. Patent 4,671,833).

The admitted prior art discloses a method for sealing a tube comprising providing a plastic (i.e. resinous) tube having an opening (e.g. pouring out end), holding the tube (e.g. at the threaded end) in a conveyor (i.e. jig) that translates the tube, inserting a nozzle into the opening, applying hot air through a hole/holes (i.e. localized heating source) in the nozzle to the inner peripheral portion of the opening to heat the inner peripheral portion of the tube, removing the nozzle from the opening, and clamping the opening to seal the container (Figure 6 and Page 2, lines 10-25 and Page 3, lines 1-22). The admitted prior art does not specifically disclose rotating the tube during heating. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the admitted prior art to include rotating the tube during heating as it was well known in the art of applying heat to a tube from a localized heat source to rotate the tube while applying heat to ensure even/uniform heating as shown for example by any one of Cozzoli '342, Cozzoli '688, or Bradford et al.

Cozzoli '342, Cozzoli '688, and Bradford et al. are exemplary of applying heat to a tube from a localized source wherein the tube is rotated during heating to ensure even/uniform heating of the tube (Page 2, column 1, lines 7-11 and Page 2, column 2, lines 4-7 and 63-67 of Cozzoli '342 and Column 10, lines 6-8 of Cozzoli '688 and Column 9, lines 19-22 of Bradford et al.).

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (Specification Figure 6 and pages 1-3) in view of any one of Cozzoli '342, Cozzoli '688, Bradford et al., JP59178210 (See also the abstract), or Marchesini (U.S. Patent 4,991,377).

The admitted prior art is described above in full detail. The admitted prior art does not specifically disclose rotating the tube during heating. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the admitted prior art to include rotating the tube during heating by for example rotating the translating and holding conveyor, i.e. jig, as it was well known in the art of applying heat to a tube from a localized heat source to rotate the tube while applying heat to ensure even/uniform heating as shown for example by any one of Cozzoli '342, Cozzoli '688, Bradford et al., JP 59178210, or Marchesini, it being noted JP 59178210 and Marchesini specifically show rotating the jig with tube thereon.

Cozzoli '342, Cozzoli '688, and Bradford et al. are described above in full detail. JP 59178210 and Marchesini are exemplary of applying heat to a tube from a localized source wherein the tube and its holding jig are rotated during heating to ensure even/uniform heating of the tube (See the abstract and Figure 1 of JP 59178210 and Figures 1-3 and Column 3, lines 67-68 and Column 4, lines 1-3 and Column 5, lines 17-27 of Marchesini).

Response to Arguments

6. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues, "The other references cited by the Examiner are non-analogous art."

Paragraph 2 of the previous action states:

"... it was well known in the art of applying heat to a tube from a localized heat source to rotate the tube while applying heat to ensure even/uniform heating as shown for example by any one of Cozzoli '342, Cozzoli '688, or Bradford et al."

The admitted prior art as well as Cozzoli '342, Cozzoli '688, and Bradford et al. are directed to heating a tube from a localized heat source wherein Cozzoli '342, Cozzoli '688, and Bradford et al. are exemplary of the well known technique of rotating the tube during heating to ensure even/uniform heating such that clearly the references are analogous from the standpoint that they all are directed to heating a tube from a localized heat source and thus, any of the well known techniques for improving this heating taught by the references would have been obvious.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John L. Goff


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